

PL-1

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

10,467

FILE: B-194449

DATE: June 15, 1979

MATTER OF: Kenneth Roberts & Associates, Inc.

[Untimely Protest of Department of Transportation Contract Award]
DIGEST:

Protest filed with GAO more than 10 days after notification of initial adverse agency action (denial of protest to agency) is untimely and will not be considered.

Kenneth Roberts & Associates, Inc. (KRA), protests the proposed award of a contract under request for proposals (RFP) No. TSC/721-0017-RN to SAGE Management Consultants (SAGE) by the Department of Transportation (DOT) to conduct a review and assessment and develop system software improvements to a bus scheduling system. *DLG 01814*

KRA contends that: (1) prior to the RFP due date, it was informed that "no installers need apply" and SAGE is an installer; (2) award to SAGE (a Canadian company) would violate the "Buy American Act;" (3) SAGE publicly stated that software developed for its Canadian sponsors will not be made available to DOT as part of proposed project; (4) the proposed award determination was made on the basis of software products currently being developed by SAGE but the RFP emphasized proven implementation and knowledge of transit industry needs; and (5) steps should have been taken by DOT in advance of any award to insure that all installers would be protected and would not suffer a disadvantage because of the procurement.

By letter dated December 5, 1978, to DOT, KRA initially filed a protest based on these contentions. By letter dated December 22, 1978, DOT denied the protest. Subsequently, KRA's protest to our Office was filed on March 27, 1979.

Section 20.2(a) of our Bid Protest Procedures, 4 C.F.R. part 20 (1978), states:

"Protesters are urged to seek resolution of their complaints initially with the contracting agency. If a protest

005584

has been filed initially with the contracting agency, any subsequent protest to the General Accounting Office filed within 10 [working] days of formal notification of or actual or constructive knowledge of initial adverse agency action will be considered * * *."

Since the letter of December 22, 1978, was the initial adverse agency action (denial of the protest to the agency) and KRA did not file its protest with our Office until March 27, 1979, the protest is untimely and will not be considered. Biltwell Development Company of San Francisco, B-193827, January 30, 1979, 79-1 CPD 73.

The protest is dismissed.



Milton J. Socolar
General Counsel